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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,848

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Mark E. Herrmann

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EXAMINER

HARPER, TRAMAR YONG

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

06/11/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ll-a.com  
gengelso@ll-a.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,848	<b>Applicant(s)</b> HERRMANN ET AL.	
	<b>Examiner</b> TRAMAR HARPER	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/2/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges receipt of amendments/arguments filed 02/28/2008.

The arguments set forth are addressed herein below. Claims 1-25 remain pending and Claim 10 is currently amended.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-6 & 8-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisk (WO 00/69535 A1).**

**Claims 1-2, 4-6, 10-16, 19-20, 22-24:** Fisk discloses a bingo gaming system that comprises providing entry and/or subscription into at least one or more bingo game sessions. The system includes a variety of terminal, gaming computers, etc. for implementing multiple bingo games. A player can purchase a subscription to a bingo game at various gaming terminals or retail locations. Fisk discloses that entry to a bingo game can be done in a variety of ways such as through the Internet, telephone, or ATM interfaces all linked within a bingo network. Also, preprinted cards can be received through the newspaper inserts, lottery instant tickets, etc. All entries are validated and associated with respective player accounts. Furthermore, players cannot participate in games that are currently active, but can pay for entry into games that are inactive (Pg.

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25:20-Pg. 30:5). Fisk discloses that players can establish a prepaid account through a credit card or debit card for future charges or entries into bingo games. The player or players can receive periodic bills for charges accrued during the previous period (Pg. 12:25-Pg. 13:5- e.g. subscription and automated renewal into bingo games). Fisk discloses that prepaid bingo tickets can be repeatedly used for subsequent/consecutive bingo games, wherein players purchase a prepaid bingo card for use for a limited number of games before the prepaid amount is consumed. Once the prepaid amount is used anymore plays on the card must be purchased again e.g. the card must be renewed (Pg. 30:5-12). Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a payout. Payouts vary from jackpot awards to “leaster” awards, therefore based on the type of win gaming system determines the appropriate payout. The numbers are randomly drawn from a game computer and compared via matching computers (Pg. 27:16-24, Pg. 32:17-Pg. 33:33, Pg. 36:1-5, Pg. 3:3-24). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a bingo card (Pg. 37:16-25).

**Claims 3, 8, & 21:** Fisk discloses a special jackpot award wherein a player that must achieve a row of hits in five called numbers on a card (Pg. 39:17-23). This is clearly interpreted as determining a payout based on fixed odds of winning, considering the likely hood or probability of achieving the outcome is significantly high.

**Claim 9:** Fisk discloses that various combination of winning pattern can achieve a “bingo” within the game and that achieving bingo can either end the game or modify the game (Pg. 37:10-34). This includes any bingo, which is well known in the art, and basically consists of achieving bingo in any known fashion until a winning bingo is achieved e.g. a bingo game wherein the odds of winning aren’t fixed.

**Claims 17-18:** Fisk discloses that at the players’ receive bingo game cards that are randomly generated by the card generator/computer within the network (Pg. 12:1-5, Pg. 19:1-8, Pg. 31:1-5). Fisk discloses that alternatively bingo cards cannot be reused in subsequent games, therefore a player has to receive a new card each game (Pg. 34:20-22).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 7 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Odom (US 6,581,935).**

**Claims 7 & 25:** Fisk discloses the above with respect to the independent claims, but excludes specifically disclosing determining payouts based on a predetermined payout table, to the at least one player. Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a

payout. Payouts vary from jackpot awards to “leaster” awards, therefore based on the type of win gaming system determines the appropriate payout (see above). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a bingo card (Pg. 37:16-25). However, Odom discloses a bingo type game playable over a network, wherein a player can achieve various winning patterns during a bingo game that are respective of different awards based on a payable (Abstract, Col. 4:24-66). It would have been obvious to one of ordinary skill at the time of the invention to have, modified the bingo gaming system of Fisk to incorporate the bingo payable of Odom for purposes of providing various payouts to the player. The more and/or different types of awards available to the player the more incline the player will be willing to player the game. Such a modification would increase player participation because of the increased opportunities to achieve various payouts.

### ***Response to Arguments***

Applicant's arguments filed 02/28/08 have been fully considered but they are not persuasive. Particularly, applicant argue that Fisk fails to disclose “providing for an entry of at least one player in at least one of a plurality of game sessions, wherein the act of providing for an entry includes an act of providing for a subscription of the at least one player to the at least two of the plurality of game sessions.” Examiner respectfully disagrees, because the claim language states, **wherein the act of providing for an entry includes an act of providing for a subscription to the at least two of the plurality of game sessions e.g.** system has to allow the player to subscribe to at least

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two game sessions. Examiner interprets the entry to be defined as a subscription. As stated above, Fisk discloses that players can establish a prepaid account through a credit card or debit card for future charges or entries into bingo games. The player or players can receive periodic bills for charges accrued during the previous period (Pg. 12:25-Pg. 13:5- e.g. subscription and automated renewal into bingo games). **Fisk discloses that prepaid bingo tickets can be repeatedly used for subsequent/consecutive bingo games, wherein players purchase a prepaid bingo card for use for one or a limited number of games before the prepaid amount is consumed. Once the prepaid amount is used anymore plays on the card must be purchased again e.g. the card must be renewed (Pg. 30:5-12).** This is clearly interpreted as allowing a player to purchase a single prepaid bingo card for use in more than one bingo gaming session, which is a subscription or pre-payment to consecutive games. Applicant has failed to clearly define what an entry consists of due to the fact that the first part of the claim states that an entry is an opportunity for a player to play in at least one of a plurality of games (**providing for an entry of at least one player in at least one of a plurality of game sessions**) and furthermore goes on to define the same entry as a subscription to a plurality of game e.g. a player can subscribe in multiple bingo games (**wherein the act of providing for an entry includes an act of providing for a subscription to the at least two of the plurality of game sessions**). One skilled in the art could interpret the language as an entry to at least one game out of a plurality e.g. one entry per game out of a group of games or one

subscription/payment to multiple games. However, at least in the above regards Fisk clearly discloses a subscription/payment to multiple games.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TH

/Ronald Laneau/  
Supervisory Patent Examiner, Art Unit 3714  
5/28/08